

**Testimony of Philip C. Stittleburg**  
**Chief of the La Farge (WI) Fire Department and**  
**Chairman of the National Volunteer Fire Council (NVFC)**  
**Submitted to the House Committee on Ways and Means' Income Tax Working Group**  
**Regarding the Impact of Federal Taxation of Volunteer Emergency Responder Benefits**  
**April 15, 2013**

Thank you for the opportunity to provide information regarding the impact that federal taxation has on recruitment and retention incentives that many communities provide to their volunteer emergency responders as a reward for their service. My name is Philip C. Stittleburg and I have been the Chief of the La Farge (WI) Fire Department since 1977 and a member of the Board of the National Volunteer Fire Council (NVFC) since 1979. Since 2001 I have served as the Chairman of the NVFC Board. A short version of my bio is included at the end of my testimony.

**Recruitment and Retention Challenges**

To provide some context as to why recruitment and retention incentives are important, let me use my own fire department as an example. La Farge FD is an all-volunteer fire department that has a first-due response area covering approximately 135 square miles and containing about 2,750 residents and 85 commercial buildings. Approximately 1/3 of our personnel have been members of the FD for 20 or more years, 1/3 for 10-20 years and the remaining 1/3 for less than 10 years.

My Department's long-rang planning committee has determined that due to the age of our firefighters that we will need to replace approximately 1/3 of our personnel in the next few years AND retain almost all of the rest of the department's personnel that are not approaching retirement age simply to maintain our existing level of service provision. We have found that long term commitments to the department are becoming increasingly difficult to cultivate with increasing demands on volunteers' family and personal time. Additionally, being located in a rural community, many of our current and prospective volunteers are commuting out of the area for work, making them unavailable for daytime, weekday responses and leaving less time on nights and weekends for training.

Just this year, my department established an incentive program with a goal of stabilizing our staffing levels. Our circumstances at La Farge FD are fairly typical of volunteer fire departments around the country, especially those protecting our nation's smallest communities. As training and certification standards have increased in recent decades we have seen a significant decrease in the number of younger people entering the volunteer fire service and the number of volunteer firefighters overall has declined as well.

Between 1983 and 2011, the number of volunteer firefighters in the United States declined from 884,600 to 756,400, a 15 percent reduction. More than half of that decline has occurred since 2008. As the number of younger volunteer firefighters has fallen off, a greater number of older volunteers have chosen to put off "retiring" from the fire department. As a result, between 1987 and 2011, the number of firefighters under the age of 40 serving communities of 2,500 or fewer residents dropped from 282,821 to 176,063 while the number of over-40 firefighters serving these same communities rose from 164,681 to 199,338.

For a while, the decrease in recruitment of younger firefighters was offset to a degree by greater retention of older firefighters. Over time, however, this created a situation in many volunteer fire departments where a large number of core personnel are nearing retirement. Close to 30 percent of firefighters in communities of 2,500 or

less are now over the age of 50 and there are fewer younger volunteers coming up to replace them than in the past.

Establishing an incentive program, as my fire department is in the process of doing right now, has become an increasingly popular way for local agencies and communities to promote recruitment and retention of volunteers. Although some may question why volunteers should receive compensation in any form, the reality is that as the demands of the job have increased the number of people willing and able to make the necessary commitment entirely for free has dwindled. The value of the services donated by volunteer firefighters annually is estimated to be \$129.7 billion and communities recognize that providing small benefits to bolster recruitment and retention is actually the most cost-effective strategy for providing quality emergency services.

I won't delve any further into discussing recruitment and retention in my formal testimony but I am including as an addendum, additional background information on the challenges facing the volunteer emergency services. The charts that the data cited above are taken from as well as copies of 13 articles published in just the last year detailing how recruitment and retention issues are affecting local volunteer fire departments across the country are attached.

### **Volunteer Benefits**

Volunteer benefits come in various forms. Communities provide length of service award programs (LOSAPs, retirement accounts for volunteer first responders), various tax and fee reductions, small cash payments for emergency calls responded to, reimbursement for expenses incurred, and a variety of others ranging from gym memberships to a free round of golf. The types and levels of benefit vary widely by community but departments have found that even minor incentives go a long way towards demonstrating that volunteers are valued, which can dramatically improve retention.

Taxation of volunteer benefits can be confusing, in part because the very definition of "volunteer" isn't clear. The U.S. Department of Labor has ruled that personnel compensated at a rate of less than twenty percent of what a full-time paid employee performing the same functions would be compensated in the same jurisdiction should be considered "volunteers" rather than "employees." The Internal Revenue Service (IRS), however, does not recognize this distinction and has made it clear that even minor benefits provided to volunteers should be taxed as income.

The notion that volunteer benefits ought to be subject to federal income and payroll taxes has been slow to take hold in the volunteer emergency services community, generally. Even today, the NVFC continues to hear from volunteer fire departments that are unaware that the benefits they provide are technically subject to taxation for a number of reasons, including:

- Interpreting the Labor Department's ruling to mean that because someone is considered a "volunteer" rather than an "employee" that benefits provided to that individual are not subject to income taxation.
- Viewing volunteer benefits as reimbursement and hence not subject to income taxation.
- Believing that if benefit amounts are small enough that there is no requirement that they be treated as taxable income or reported as such.
- Not viewing themselves as employers or the benefits they provide as income.
- Never having been audited or even contacted by the IRS and informed otherwise.

Firefighters that are paid a modest amount still consider themselves to be volunteers and view the benefits they receive as a form of reimbursement for all of the sacrifices they make serving the department. These sacrifices

include not only the time and energy that they donate but, frequently, paying for items that the department either can't afford or doesn't have the administrative wherewithal to provide.

It is common practice for volunteer emergency responders to respond to calls or drive to training in their personal vehicles. Most volunteers buy the clothing that they use during training and/or wear under their personal protective equipment. It is not uncommon for volunteers to pay for equipment or training that their department doesn't offer as standard issue. Many departments rely on these types of informal "donations" of financial resources by their members just to maintain operations.

Although volunteers view the financial incentives that they receive as "reimbursement," volunteer benefits do not generally meet the IRS definition because in most departments the reimbursed amount does not correspond to a specific amount of expenditure documented through collection of receipts or reported mileage. Formally reimbursing volunteers for these types of contributions is problematic on a number of levels. Almost by definition, volunteer agencies tend to serve communities that have lower-than-average population densities and higher-than-average rates of poverty. As a result, resource shortages are a huge challenge and one that, according to national fire department surveys, becomes more acute the smaller the community served.

Even if resources were available to reimburse personnel for their expenses, just collecting the receipts and processing the paperwork would be a tremendous administrative burden. Most volunteer agencies have no paid administrative staff and many serve communities where local government functions are carried out by elected, part-time officials who themselves are barely compensated.

## **Towards a Solution**

The NVFC believes that benefits provided to individuals who meet the Department of Labor's definition of a volunteer firefighter ought to be exempt from taxation. Considering that the value of services rendered by volunteer emergency responders are worth far more than the meager benefits they receive, the notion that the federal government is owed tax on those benefits is counterintuitive. If a volunteer firefighter provides \$10,000 worth of public safety services and receives a \$500 stipend as a reward, they've donated a net \$9,500 to their community. Why should they have to pay higher taxes for this, especially when in addition to the services rendered it is likely that the volunteer spent several hundred dollars of their own money to facilitate their participation as a member of the department?

Reforming the treatment of volunteer incentives under the tax code to allow departments to provide an across-the-board, baseline level of benefit/reimbursement without incurring tax liability would especially help smaller agencies that, according to national surveys, struggle the most with recruitment and retention. Although the NVFC believes that all volunteer benefits ought to be tax-exempt, we recognize that larger agencies that provide greater incentive amounts tend to be better-positioned to manage the added financial and administrative burden associated with federal income taxation, reporting and withholding.

At a minimum, the federal tax code should be modified to allow local fire and EMS agencies to provide modest awards/reimbursement to their volunteer personnel without incurring tax liability. In an attempt to simplify the application of federal tax law on volunteer benefits, legislation exempting property tax abatements and up to \$360 per year of other types of benefits to volunteer firefighters and EMS personnel was enacted in 2007. In 2008, Congress passed legislation clarifying that exempted benefits are not subject to payroll taxes or withholding. Both of these provisions, commonly referred to as the Volunteer Responder Incentive Protection Act (VRIPA), expired at the end of 2010.

VRIPA increased the incentive value of volunteer benefits while easing administrative burdens associated with reporting and calculating withholding on volunteer benefits. The NVFC supported the Volunteer Responder Incentive Protection Reauthorization Act (VRIPRA) in the 112<sup>th</sup> Congress, which was supported by Ways and Means Committee members of both parties. In addition to extending VRIPA, VRIPRA would have increased the tax-exempted amount of benefit/reimbursement that volunteers can receive from \$360 to \$600.

Volunteering has been part of American life since before our nation was founded. The volunteer spirit remains strong but as society changes, barriers to volunteering as an emergency responder have emerged that are making it increasingly difficult to recruit and retain personnel. Thousands of local communities now provide incentives designed to make volunteering a cost-neutral proposition. Passage of VRIPRA or similar legislation would give agencies that provide modest benefits a reprieve from having to report these payments as income. It would also ensure that volunteers don't have to pay tax on what amounts to reimbursement for expenses incurred on behalf of the department.

*Chief Philip C. Stittsburg, B.A., J.D., FIFireE, CFO, entered the volunteer fire service in 1972 after working as a paid member of a combination fire department. He has served as chief of the La Farge (Wisconsin, USA) Fire Department since 1977. Chief Stittsburg is currently serving his sixth two-year term as chairman of the board of directors of the National Volunteer Fire Council (NVFC) and his first one-year term as chairman of the board of directors of the National Fire Protection Association (NFPA). He is also a member of the board of directors of the National Fallen Firefighters Foundation (NFFF). In 1998, Chief Stittsburg was named Fire Chief magazine's volunteer fire chief of the year.*

*Chief Stittsburg has authored over 100 published articles on various fire service topics and has been a regular contributor to Fire Chief magazine's legal column for over twenty years. He has written portions of several fire service books, writes and teaches undergraduate university fire service courses, and frequently speaks to fire service audiences throughout the United States and internationally.*